



General Assembly

Substitute Bill No. 5328

February Session, 2012

* ____HB05328JUD__050312____ *

AN ACT ESTABLISHING A FINE ART SECURED LENDING LICENSE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective October 1, 2012*) (a) For purposes of
2 sections 1 to 9, inclusive, of this act, "fine art" means any (1) drawing;
3 (2) painting; (3) sculpture; (4) mosaic; (5) photograph; (6) work of
4 calligraphy; (7) work of graphic art, including any etching, lithograph,
5 offset print, silkscreen or other work of graphic art; (8) craft work in
6 clay, textile, fiber, metal, plastic or other material; (9) art work in mixed
7 media, including any collage, assemblage or other work combining
8 any of the artistic media named in this definition, or combining any of
9 said media with other media; or (10) a master from which copies of an
10 artistic work can be made, such as a mold or a photographic negative,
11 with a market value of at least two thousand five hundred dollars.
12 "Fine art" shall not include (A) commissioned work prepared under
13 contract for trade or advertising usage, provided the artist, prior to
14 creating the work, has signed an agreement stating that said work shall
15 be a commissioned work which may be altered without consent, and
16 (B) work prepared by an employee within the scope of such
17 employee's employment duties.
- 18 (b) No person shall, in any city or town of this state, engage in or
19 carry on the business of loaning money upon deposits or pledges of
20 fine art unless such person is licensed in accordance with section 2 of

21 this act. The provisions of sections 1 to 9, inclusive, of this act shall
22 apply only if such fine art is deposited with a lender, and shall not
23 apply to loans made upon stock, bonds, notes or other written or
24 printed evidence of ownership of fine art or of indebtedness to the
25 holder or owner of any such securities.

26 Sec. 2. (NEW) (*Effective October 1, 2012*) (a) The licensing authority of
27 any town or city may grant licenses to suitable persons to be fine art
28 secured lenders in such town or city respectively, and may suspend or
29 revoke such licenses for cause, which shall include, but not be limited
30 to, failure to comply with any requirements for licensure specified by
31 the licensing authority at the time of issuance. For purposes of this
32 section and sections 3 and 5 of this act, "licensing authority" means the
33 chief of police of any town or city or, if such town or city does not have
34 an organized local police department, the Commissioner of Emergency
35 Services and Public Protection.

36 (b) The person so licensed shall pay, for the benefit of any such city
37 or town, respectively, or if the licensing authority of such city or town
38 is the Commissioner of Emergency Services and Public Protection, for
39 the benefit of the Department of Emergency Services and Public
40 Protection, to the licensing authority a license fee of fifty dollars, and
41 twenty-five dollars per year thereafter for renewal of such license, and
42 shall, at the time of receiving such license, file, with the licensing
43 authority of such city or town, a bond to such city or town, with
44 competent surety, in the penal sum of two thousand dollars, to be
45 approved by such licensing authority, and conditioned for the faithful
46 performance of the duties and obligations pertaining to the business so
47 licensed, unless such person is also licensed as a secondhand dealer in
48 accordance with section 21-47d of the general statutes, in which case
49 the licensing authority shall waive the payment of renewal fees and
50 filing of a bond required by this subsection.

51 (c) Each such license shall designate the place where such business
52 is to be carried on and shall be in effect for one year unless sooner
53 suspended or revoked. Such license shall be displayed in a

54 conspicuous location in the place where such business is carried on. At
55 the time of application for such license and each renewal thereof, the
56 applicant shall disclose to the licensing authority all places used or
57 intended to be used by the business for the purchase, receipt, storage
58 or sale of fine art. During the term of such license, the licensee shall
59 notify the licensing authority of any additional places that will be used
60 by the business for the purchase, receipt, storage or sale of fine art
61 prior to such use.

62 (d) An application for such license shall be made in writing, under
63 oath. The application shall contain: (1) The type of business to be
64 engaged in, (2) the applicant's full name, age and date and place of
65 birth, (3) the applicant's residence addresses and places of employment
66 within the preceding five years, (4) the applicant's present occupation,
67 (5) any crime of which the applicant has been convicted and the date
68 and place of such conviction, and (6) such additional information as
69 the licensing authority deems necessary to investigate the
70 qualifications, character, competency and integrity of the applicant. If
71 the applicant is a corporation, limited liability company, partnership or
72 association, the application shall contain the information required by
73 this subsection for each individual who is or will be an officer,
74 shareholder, financial backer or creditor, other than a financial
75 institution, of such entity or any other individual with a relationship to
76 such entity similar to that of an officer, shareholder, financial backer or
77 creditor.

78 (e) The application for such license and any renewal thereof shall
79 identify or provide the address for any Internet web site or account
80 used by such applicant to conduct the business. During the term of the
81 license, the licensee shall notify the licensing authority in writing of the
82 addition or discontinuation of any Internet web site or account used to
83 conduct the business.

84 (f) No license shall be issued under this section by the licensing
85 authority to any person who has been convicted of a felony. The
86 licensing authority may require any applicant, employee or person

87 with an ownership interest in the business to submit to state and
88 national criminal history records checks. Whenever the licensing
89 authority requires such criminal history records checks, such
90 individual shall submit two complete sets of fingerprints on forms
91 prescribed by the licensing authority. Any criminal history records
92 checks required pursuant to this subsection shall be conducted in
93 accordance with section 29-17a of the general statutes. The licensing
94 authority may charge the individual a fee equal to the fees established
95 by the Federal Bureau of Investigation and the State Police Bureau of
96 Identification for performing such criminal history records checks.

97 (g) The licensing authority shall grant or deny an application for a
98 license not later than ninety days after the filing of such application
99 with the licensing authority. A licensee seeking renewal of such license
100 shall file an application for renewal at least sixty days before the
101 expiration of such license and the licensing authority shall grant or
102 deny such renewal not later than thirty days after the filing of such
103 application for renewal. Failure of the licensing authority to act on
104 such initial application or renewal application within the applicable
105 period specified in this subsection shall be deemed to be a denial. The
106 licensing authority may suspend, revoke or modify any license issued
107 under this section at any time during the period of the license for good
108 cause shown, upon notice to the licensee and following a hearing. The
109 licensing authority shall hold any such hearing not later than five days
110 after the date of issuance of such notice and shall issue a decision not
111 more than fourteen days after any hearing. Any person aggrieved by
112 any action of the licensing authority in denying, suspending, revoking,
113 modifying or refusing to renew a license issued pursuant to this
114 section may appeal from such action to the Superior Court.

115 Sec. 3. (NEW) (*Effective October 1, 2012*) (a) No fine art secured
116 lender shall take, receive or purchase fine art without receiving proof
117 of the identity of the person depositing, pledging or selling the fine art.
118 Such identification shall include a photograph, an address, if available
119 on the identification, and an identifying number, including, but not
120 limited to, date of birth. No fine art secured lender shall enter into any

121 pledge or purchase transaction with a minor unless such minor is
122 accompanied by such minor's parent or guardian.

123 (b) Each such fine art secured lender shall maintain a computerized
124 record keeping system deemed appropriate by the licensing authority,
125 in which shall be entered in English, at the time the secured lender
126 receives any article of fine art by way of pledge, deposit or purchase, a
127 description of such article, the name, residence address, proof of
128 identity as required in subsection (a) of this section and a general
129 description of the person from whom, and the date and hour when,
130 such fine art was received and in which, if the fine art does not contain
131 any identifiable numbers or markings, shall be included a digital
132 photograph of each article. Each entry in the record keeping system
133 shall be numbered consecutively. A tag shall be attached to the article
134 in a visible and convenient place with a number written on such tag
135 corresponding to the entry number in the record keeping system and
136 shall remain attached to the article until the article is sold or otherwise
137 disposed of, provided the licensing authority shall prescribe
138 procedures authorizing the removal of such tags from articles,
139 including those articles consisting of jewelry that are cleaned and
140 repaired on the premises by the fine art secured lender, that will
141 provide accountability for such articles. Such tag shall be visible in a
142 digital photograph taken in accordance with this section. Such record
143 keeping system and the place where such business is carried on and all
144 articles of fine art therein may be examined at all times by any state
145 police officer, municipal police officer, the licensing authority or any
146 person designated by them. Any state police officer or municipal
147 police officer who performs such an examination may require any
148 employee on the premises to provide proof of the employee's identity.
149 All records maintained pursuant to this section shall be retained by the
150 fine art secured lender for not less than two years.

151 (c) Except as provided in subsection (d) of this section, the
152 description of any fine art received by a fine art secured lender under
153 this section shall include, but not be limited to, all distinguishing
154 marks, names of any kind, including serial numbers, engravings,

155 etchings, affiliation with any institution or organization, dates, initials,
156 color, vintage or image represented. Any description of media of any
157 kind shall also include the title and artist or any other identifying
158 information contained on the cover or external surface of such media.

159 (d) The licensing authority may provide for an exemption from, or
160 establish additional or different requirements than, the requirements of
161 subsection (c) of this section upon consideration of the nature of the
162 fine art, transaction or business, including, but not limited to, articles
163 in bulk lots.

164 Sec. 4. (NEW) (*Effective October 1, 2012*) (a) Each fine art secured
165 lender shall, at the time of making any loan on a pawn or pledge of
166 fine art or of purchasing such fine art on condition of selling the same
167 back again at a stipulated price deliver to the person who deposits,
168 pledges or sells such fine art a memorandum or note containing (1) the
169 entry required by the provisions of section 3 of this act to be made in
170 such fine art secured lender's computerized record keeping system,
171 and (2) a statement signed by the person who deposits, pledges or sells
172 such fine art representing and warranting that: (A) Such fine art is not
173 stolen and has no liens or encumbrances against it, (B) such person is
174 the rightful owner of such fine art and has the right to enter into the
175 transaction, and (C) such person will indemnify and hold harmless
176 such fine art secured lender for any loss arising from the transaction
177 because of a superior right of possession to the fine art residing with a
178 third person. Each such fine art secured lender may charge the person
179 who deposits, pledges or sells such fine art a fee for such
180 memorandum or note, the processing and recording of the transaction,
181 the storage of the fine art, any insurance for the fine art and any
182 appraisal of the fine art. Each such fine art secured lender shall pay for
183 any fine art received by deposit, pledge or purchase only by check,
184 draft or money order and shall not pay cash for any such fine art
185 except when the fine art secured lender cashes a check, draft or money
186 order for the person who is depositing, pledging or selling the fine art.
187 When the fine art secured lender cashes a check, draft or money order,
188 such fine art secured lender shall require proof of the identity of the

189 person presenting the check, draft or money order in accordance with
190 subsection (a) of section 3 of this act.

191 (b) Each check, draft or money order used to pay for fine art
192 received by a fine art secured lender shall contain the number or
193 numbers associated with such fine art in the record keeping system
194 maintained in accordance with section 3 of this act. Whenever payment
195 is made by check, the fine art secured lender shall retain the electronic
196 copy of such check or other record issued by the financial institution
197 that processed such check, and such copy or record shall be subject to
198 inspection pursuant to section 3 of this act as part of such record
199 keeping system. No fine art secured lender shall cash any check, draft
200 or money order issued by such fine art secured lender in an amount in
201 excess of one thousand dollars and no person shall structure any
202 transaction or transactions to avoid this prohibition. Any transaction or
203 transactions between a fine art secured lender and the same party
204 within a twenty-four-hour period shall be aggregated and considered a
205 single transaction for the purposes of this subsection.

206 Sec. 5. (NEW) (*Effective October 1, 2012*) Each fine art secured lender
207 shall submit to the licensing authority, weekly or more frequently as
208 determined by the licensing authority upon consideration of the
209 volume and nature of the business, a sworn statement of his or her
210 transactions, describing the fine art received and setting forth the
211 nature and terms of each transaction and the name and residence
212 address and a description of the person from whom the fine art was
213 received. Such statement shall be in an electronic format prescribed by
214 the licensing authority. The licensing authority may grant an
215 exemption from the requirement of submitting such statement in
216 electronic format for good cause shown.

217 Sec. 6. (NEW) (*Effective October 1, 2012*) No fine art secured lender or
218 person who loans money on the deposit or pledge of fine art shall take
219 or receive, for the use of money loaned on fine art, any more than the
220 following rates: (1) For the use of money amounting to fifteen dollars
221 or less, five per cent per month or fraction thereof; (2) for the use of

222 money exceeding fifteen dollars in amount and not exceeding fifty
223 dollars in amount, three per cent per month or fraction thereof; and (3)
224 for the use of money exceeding fifty dollars in amount, two per cent
225 per month or fraction thereof.

226 Sec. 7. (NEW) (*Effective October 1, 2012*) No fine art secured lender
227 shall sell or dispose of any fine art left with such fine art secured
228 lender in deposit or pledge for money loaned or as a result of the
229 purchase of such fine art on condition of selling the same back again at
230 a stipulated price in less than sixty days from the date when the same
231 is left in deposit or pledge or purchased on condition of selling the
232 same back again at a stipulated price, except when such sale or
233 disposition is to the person who deposited, pledged or sold such fine
234 art or an authorized agent of such person. All such fine art may be sold
235 or disposed of at the place of business of such fine art secured lender
236 or at public sale after such sixty-day period. Upon the expiration of
237 sixty days from the date when such fine art is left with a fine art
238 secured lender, if the person who deposited or pledged such fine art
239 fails to redeem any such fine art in accordance with the terms of the
240 transaction, such right of redemption or repurchase on the part of the
241 person who deposited or pledged such fine art shall be extinguished
242 and the fine art secured lender shall acquire the entire interest in the
243 fine art that was held by the person who deposited or pledged such
244 fine art prior to such deposit or pledge without further notice to such
245 person.

246 Sec. 8. (NEW) (*Effective October 1, 2012*) Whenever property is seized
247 from the place of business of a fine art secured lender by a law
248 enforcement officer, such officer shall give the fine art secured lender a
249 duly signed receipt for the fine art containing a case number, a
250 description of the fine art, the reason for the seizure, the name and
251 address of the officer, the name and address of the person claiming a
252 right to the fine art prior to the fine art secured lender and the name of
253 the fine art secured lender. If the fine art secured lender claims an
254 ownership interest in such fine art, he or she may request the return of
255 such fine art by filing a request for such fine art with the law

256 enforcement agency in accordance with the provisions of section 54-
 257 36a of the general statutes. If the person who deposited, pledged or
 258 sold any fine art received by a fine art secured lender is convicted of
 259 any offense arising out of such fine art secured lender's acquisition,
 260 retention or disposition of the fine art and such fine art secured lender
 261 suffered an economic loss as a result of such offense, the court, at the
 262 time of sentencing, may order restitution to such fine art secured
 263 lender pursuant to subsection (c) of section 53a-28 of the general
 264 statutes and such order may be enforced in accordance with section
 265 53a-28a of the general statutes.

266 Sec. 9. (NEW) (*Effective October 1, 2012*) (a) Any person who wilfully
 267 engages in the business of a fine art secured lender, unless licensed
 268 according to law, or after notice that his or her license has been
 269 suspended or revoked, shall be guilty of a class D felony.

270 (b) Any person who wilfully violates any provision of sections 1 to
 271 8, inclusive, of this act for which no other penalty is provided shall be
 272 guilty of a class A misdemeanor.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	New section
Sec. 2	<i>October 1, 2012</i>	New section
Sec. 3	<i>October 1, 2012</i>	New section
Sec. 4	<i>October 1, 2012</i>	New section
Sec. 5	<i>October 1, 2012</i>	New section
Sec. 6	<i>October 1, 2012</i>	New section
Sec. 7	<i>October 1, 2012</i>	New section
Sec. 8	<i>October 1, 2012</i>	New section
Sec. 9	<i>October 1, 2012</i>	New section

GL *Joint Favorable Subst.*

JUD *Joint Favorable*